

Appl. No.: 10/088,732
Response dated October 27, 2004
Reply to Office action of June 29, 2004

Remarks

Favorable consideration and allowance of the instant application is respectfully requested in view of the foregoing amendments to the claims, and the remarks which follow.

Claims 13-27 are currently pending in this application.

The title of the application has been amended to reflect the nature of the invention.

The claims have been amended to indicate that the partial esters of tartaric acid, malic acid, and citric acid are partial esters with C₆₋₂₂ fatty alcohols and salts of the partial esters. The syntax of the dependent claims have been improved to more clearly set forth the invention. Applicants respectfully submit that the amendments to the claims are fully supported in the specification and claims as originally filed.

The partial esters of tartaric acid, malic acid, and citric acid, with C₆₋₂₂ fatty alcohols are surfactants. The partial ester surfactants are anionic surfactants which, when combined with the alkyl oligoglycosides, provide a mild surfactant mixture for inclusion in cosmetic and pharmaceutical active ingredients. The composition of the present invention is neither taught nor suggested by the prior art references cited by the Examiner.

Claims 13-27 are pending in the application. Claims 13-27 stand rejected under 35 U.S.C. 103(a) as unpatentable over Burns (DCI) in combination with Kahre et al. (US 6,432,419). Applicants respectfully submit that Burns and Kahre et al., whether considered alone or in combination, neither teaches nor suggests the present invention.

Burns teaches ultra mild, naturally derived surfactants comprising a partial ester of tartaric acid, sulfosuccinic acid, or citric acid with an alkyl oligoglycoside. The materials are partial esters of tartaric acid, sulfosuccinic acid and citric acid. Applicants submit that there is neither teaching nor suggestion to utilize a mixture of alkyl oligoglycoside with a partial ester of tartaric, malic or citric acids with a C₆₋₂₂ fatty alcohol.

The hydroxy carboxylic acids which are esterified with an alkyl glycoside (alcohol) as shown in Table 1 (C3 and C4) do not provide foam stability and generally have a higher

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irritation score than the dual surfactant combination of the present invention. This result is unexpected in view of the teachings of the Burns' reference.

The deficiencies in Burns is not cured by combination with Kahre et al. (US 6,432,419). Kahre et al. is directed to use of fatty compounds as silicone substitutes in the production of cosmetics and/or pharmaceutical preparation. A fatty compound (g) comprises hydroxy carboxylic acid esters. However, the hydroxy carboxylic acid esters are not the partial esters of the present invention, but are oils. The classification as oils means that the esters are full esters rather than the partial esters of the hydroxy carboxylic acids with alcohols. Applicants respectfully submit that the esters useful in Kahre et al. are full ester oils rather than the partial ester surfactants useful in the practice of the present invention.

In addition, the unexpected results shown in Table 1 at page 26 of the present application, when compared with the teachings of Burns, clearly shows that the composition of the present invention provides unexpected properties to the cosmetic and pharmaceutical preparations. The unexpected properties of the composition of the present invention overcomes any prima facie case of obviousness which the Examiner may have raised.

At page 5 of the Official Action, the Examiner states:

"Applicant has not provided any evidence of record to show that the prior art compositions do not exhibit the same properties as instantly claimed."

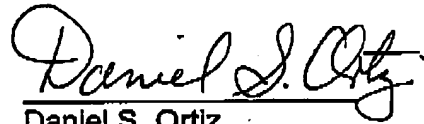
Firstly, the above discussion points out that the partial esters disclosed in Burns and the full esters disclosed in Kahre et al. are different from the partial esters utilized in the practice of the present invention. The difference in the compounds clearly shows that the product of the process are different.

In addition, Table 1 clearly shows that the composition of the present invention when mixed with the oligoglucoside partial ester, does not provide a cosmetic composition with the foam stability and mildness of the composition of the present invention.

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In view of the amendments entered in the specification and the claims, and the above discussion, Applicants respectfully submit that a rejection of the claims over Burns in view of Kahre et al. is untenable and respectfully request that the rejection be reconsidered and withdrawn.

Respectfully submitted,



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